* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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% Date of decision : 5.7.2007

\+ W.P.(C) 1155/2007 & CM APPL 2053/2007

GENERAL STORE TRANSPORT CENTRE ..... Petitioner
Through Mr. M.M. Kashyap, Advocate

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent
Through Ms. Sangeeta Chandra, Advocate

CORAM:
HON'BLE DR. JUSTICE S.MURALIDHAR

1. Whether Reporters of local papers may be allowed to see the judgment? No

2. To be referred to the Reporter or not? No

3. Whether the judgment should be reported in Digest? Yes

JUDGMENT

: Dr. S. Muralidhar, J. (open court)

1. The prayer in this writ petition by an association of persons carrying on trade at the General Store Transport Nagar, New Rohtak Road, Punjabi Bagh, New Delhi is for allotment of sites to its 67 members. It is stated that these persons have been at the site for over 20 years and have also earlier made representations to the Delhi Development Authority ('DDA') for allotment of alternative sites or regularization of the existing sites. It is claimed that at one stage the DDA was favourably considering their requests and had sought particulars from each of the members.

2. At the previous hearing of this writ petition on 14.2.2007 this Court required the petitioner to inform the Court reasons for not approaching the Court earlier since the last correspondence of the

petitioner with the DDA was some time in the year 2000 and whether in fact the information sought for by the DDA in 2000 was in fact furnished. The Court also wanted the petitioner to satisfy the Court that there was a policy under which the request of the petitioner could be considered for allotment of the sites in question.

3. An additional affidavit has been filed by the President of the petitioner-association 2.7.2007 placing on record the documents filed by 51 of the 67 members including copies of ration cards and affidavits in response to the letters dated 29.8.2000/7.9.2000 issued by the DDA.

4. In response to a query if there was in existence any policy under which the petitioners' claim can be considered, learned counsel for the petitioner refers to the judgment of the Constitution Bench of the Hon'ble Supreme Court in ***Olga Tellis v. Bombay Municipal Corporation*** (1985) 3 SCC 545. He contends that where persons who have been residing, even an unauthorizedly, for a long number of years on public land, it is incumbent upon on the State Government to offer them an alternative sites before evicting them.

5. This Court finds that a letter was written on 12.7.2000 by the DDA to the then President of the petitioner-association with reference to his representation regarding request for allotment of alternative sites “in lieu of the encroachment at Rohtak Road Transport Centre.” It is stated in the said letter that the competent authority has granted approval for conducting a survey regarding the encroachers at Rohtak Road Transport Centre. This was followed by another letter dated 29.8.2000/7.9.2000 under the subject matter “Survey of Rohtak Road

Transport Centre" by which the DDA required the petitioners to submit certain documents. It is difficult to discern from these letters any assurance held out to the petitioners that their request either for alternative sites or for regularization of the existing sites would be acceded to.

6. Ms. Sangeeta Chandra, learned counsel appearing on behalf of the DDA on advance notice informs the Court that the DDA has taken a policy decision that in the case of encroachers on commercial sites, the DDA will not to allot alternative sites. Admittedly the petitioners fall in that category. She points out that an order dated 23.7.2002 was passed by a learned Single Judge of this Court in Writ Petition (C) 1587 of 2002 (***Sohan Lal v. Union of India***) where in similar circumstances the Court rejected the request for allotment of alternative sites or for regularization of plots at the existing site and had further directed the DDA "to ensure that this policy is strictly and uniformly applied."

7. In view of the above categorical statement by the DDA that there is no policy for allotment of alternative sites to encroachers on commercial sites, the question of directing the DDA to consider the request of the petitioners does not arise.

8. The decision of the judgment of the Hon'ble Supreme Court in **Olga Tellis** is also not helpful to the petitioners. It can be seen from the paragraph 57 of the said judgment that unless and until there is an assurance given by the State that a policy for rehabilitation will be formulated or that it would consider the request of the petitioner within any existing policy for rehabilitation of the allotment of

alternative sites, it will not be possible for the Court to issue a mandamus directing the DDA to consider such a request.

9. In that view of the matter, the prayer made in the writ petition cannot be granted. This will, however, not prevent the petitioner from approaching the DDA once again to request that a policy be framed for allotment of alternative sites to the petitioners.

10. Accordingly, this petition is dismissed. The pending application also stands dismissed.

11. Order be given Dasti to learned counsel for the parties.

Sd/-

S.MURALIDHAR,J
JULY 05, 2007
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